IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 10947 of 2004

Between:

J.R.Anjaneyulu S/o J.Veerabhadrappa
Aged 43 years, Driver, A.P.S.R.T.C.,
Gooty Depot, Distirct, Ananathpur

..... PETITIONER

AND

1 The Depot Manager, AP. SRTC Gooty Depot , Ananthapur District
2 The Regional Manager, AP. SRTC Ananathapur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or orders, or direction more particularly one in the nature of Writ of Mandmaus declaring the Proceedings No.E1/1(11) 95-GTY dt. 3/07/1995 of the 1st respondent as illegal, arbitrary, unjustified, unsustainable contrary to law and violative of Article 14 of the Constitution of India and set-aside the same and consequently direct the respondent to add the one annual increment to the pay of the petitioner.

Counsel for the Petitioner : MR.A.RAMA RAO, Advocate

Counsel for the Respondent Nos.1&2: MR.P.VINAYAKA SWAMY, SC for APSRTC

The Court at the admission stage made the following :

ORDER:

The petitioner is working as Driver in the respondents Corporation. The petitioner was given a charge sheet dated 02.03.1995 alleging that he was unauthorisedly absent for duties from 19.02.1995 to 25.02.1995 though the petitioner submitted sick intimation letter on 19.02.1995 stating that due to ill health he was under treatment. Thereafter, the petitioner submitted fitness certificate on 25.02.1995. Without considering the certificate and without conducting any enquiry, the first respondent issued orders vide proceedings No.E1/1(11)95-GTY dated 03.07.1995 defering one year annual increment with cumulative effect. Thereafter, the petitioner made an application before the Assistant Commissioner of Labour, Ananthapur and there the conciliation proceedings was failed.

2. Heard both sides.

3. The learned counsel for the petitioner contended that the punishment imposed upon the petitioner is a major penalty and the same was awarded without conducting any departmental enquiry. On the other hand, the learned Standing Counsel for the respondents did not dispute that the imposition of punishment is a major penalty.

4. There cannot be any dispute that imposing a major penalty should be preceded by a departmental enquiry. Admittedly, no departmental enquiry is conducted in this case. After calling for the explanation from the petitioner, the impugned order is passed. The alleged misconduct against the petitioner relates to the year 1995 and after lapse of nine years, at this point of time, it may not be desirable for this Court to remit back the matter to the respondents for conducting a fresh enquiry.

5. In the peculiar facts and circumstances of the case, this Court is

of the opinion that the punishment can be reduced to one of a minor penalty for which no enquiry need be conducted. The charge levelled against the petitioner is that he was unauthorisedly absent for duties from 19.02.1995 to 25.02.1995. The explanation of the petitioner is that he submitted sick intimation letter on 19.2.1995 about his ill health in advance to arrange driver to avoid inconvenience to the traveling public. However, considering the facts and circumstances of the case, the punishment is a major penalty and it can be reduced. Therefore, the impugned order is modified deferring one annual increment without cumulative effect.

6. The writ petition is accordingly disposed of. In the circumstances of the case, no costs.

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K.C. BHANU, J

05th July, 2004.
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To
1 The Depot Manager, AP. SRTC Gooty Depot , Ananthapur District
2 The Regional Manager, AP. SRTC Ananathapur District
3 Two CD Copies.